RECLAMATION

Managing Water in the West

Draft Environmental Assessment

Vegetation and Sediment Maintenance Program at Little Panoche Detention Dam

EA-08-34

U.S. Department of the Interior
Bureau of Reclamation
Mid-Pacific Region
South-Central California Area Office

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List of Acronyms, Abbreviations and Definition of Terms

APE	Area of Potential Effects
CNDDB	California Natural Diversity Database
Corps	United States Army Corps of Engineers
DFG	California Department of Fish and Game
DWR	California Department of Water Resources
ESRP	Endangered Species Recovery Program
ITA	Indian Trust Asset
LPDD	Little Panoche Detention Dam
PMF	Probable Maximum Flood
Reclamation	Bureau of Reclamation
ROW	Right-of-way
SHPO	State Historic Preservation Officer
SJKF	San Joaquin kit fox
SLC	San Luis Canal
USFWS	United States Fish and Wildlife Service
VDE	Visible Dust Emissions

Section 1 Purpose and Need for Action

1.1 Background

Little Panoche Creek, an ephemeral creek, begins in the Glaucopane Ridge in San Benito County. It then flows into western Fresno County where it is dammed at Little Panoche Detention Dam (LPDD). The dam was built between 1965 and 1966 to detain floodwater collected over 81.3 square miles and to protect the integrity of the San Luis Canal (Reclamation-owned portion of the California Aqueduct). The dam acts as a sediment trap and prevents flooding of the San Luis Canal and land downstream of the dam. It is an earthen dam with a height of 151 feet and a length of 1,440 feet and has a capacity of 13,270 acre feet. Outflow passes through an outlet spillway into the creek. Maximum discharge is 3,220 cubic feet per second. Little Panoche Detention Dam is a joint-use facility owned by Reclamation and operated and maintained by the Department of Water Resources (DWR). Please see Figures 1-1 and 1-2 for location information.

Reclamation performs safety inspections on dams that fall under the jurisdiction of the Federal Dam Safety Program. Under the Dam Safety Program, Reclamation regularly monitors, examines and evaluates the performance of dams in its inventory to ensure facilities do not present unreasonable risks to the public, property, or the environment. Issues are evaluated in terms of loading conditions, structural response and the potential consequences of dam failure. When risks are determined to be unreasonable, corrective actions are formulated and implemented.

1.2 Purpose and Need

The objective of this project is to improve water flow downstream from the dam's concrete spillway and improve DWR's ability to monitor flood releases and drainage from seep holes within LPDD. Sediment has accumulated in the spillway chute allowing vegetation (cattails) to grow in a floor joint. Vegetation growth and sediment buildup in the creek is inhibiting proper flow in the channel. Removing vegetation from the spillway would provide improved access to monitor flood releases in the channel and would allow DWR to monitor drainage from seep holes within LPDD. The vegetation accumulation is extensive enough to prevent inspections of the channel banks for stability and seepage.

Without managing the vegetation and sedimentation in the creek, the San Luis Canal (SLC) and surrounding areas would be subject to damage and flooding. Over the past 23 years both Reclamation and DWR's Division of Safety of Dams have determined that LPDD is at risk of overtopping and potential failure from a Probable Maximum Flood (PMF). In 1982 a routine Safety Evaluation conducted by Reclamation was performed and concluded that a safety deficiency exists with respect to the structure's inability to store or pass the PMF. Currently, the LPDD is classified as a high hazard facility based on the potential damage to Interstate 5, the California Aqueduct (SLC) and for appreciable economic damage to orchards and irrigated farmland downstream should failure occur.

1.3 Applicable Regulatory Requirements

The Proposed Action will require a formal consultation with the United States Fish and Wildlife Service (USFWS), and compliance with the Migratory Bird Treaty Act. The Department of Water Resources will obtain a Streambed Alteration Agreement with the California Department of Fish and Game (DFG). Reclamation determined that a consultation with the State Historic Preservation Officer (SHPO) would be required. Little Panoche Creek was determined by the U.S. Army Corps of Engineers (Corps) not to be jurisdictional under Section 404 of the Clean Water Act. The Proposed Action must also comply with the Clean Air Act and the San Joaquin Valley Unified Air Pollution District's Regulation VIII, Fugitive PM10 Prohibitions.

1.4 Potential Issues

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Hydrology and Water Quality
- Wetlands/Waters of the United States

It should be noted that global climate change is not discussed in this document due to its lack of relevance to the alternatives. A change in weather patterns would not affect the need for vegetation and sediment removal at LPDD, and regardless, the project is of too short a duration (ten years) for major climate changes to occur during its implementation.

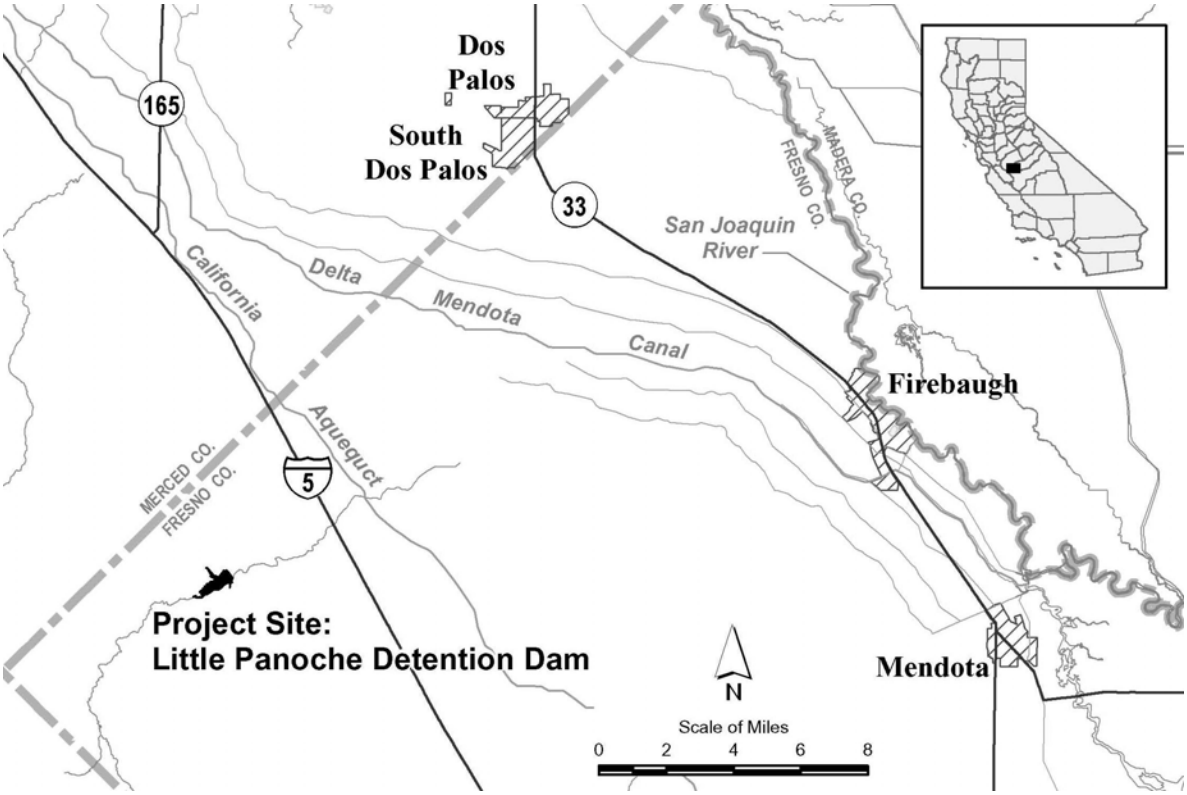


Figure 1-1. Little Panoche Detention Dam and surrounding areas.

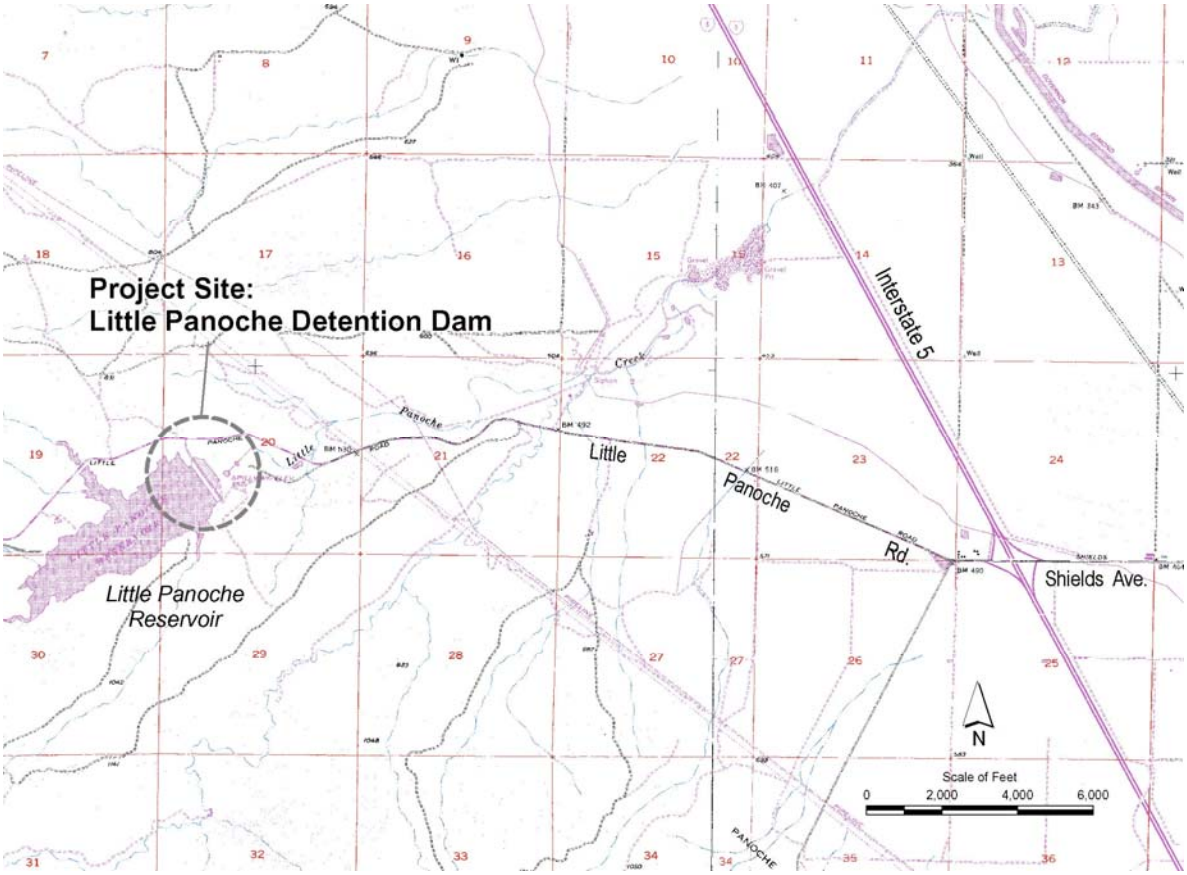


Figure 1-2. Detailed location of Little Panoche Detention Dam.

Section 2 Alternatives Including Proposed Action

2.1 No Action

Under the No Action Alternative, Reclamation and DWR would not conduct sediment and vegetation removal activities over the next 10 years. DWR would continue to access the site to monitor flood releases in the channel and drainage from seep holes within LPDD, although these monitoring activities would be increasingly difficult.

2.2 Proposed Action

Reclamation and DWR propose to implement a 10-year program to remove accumulated sediment and vegetation at the LPDD, once every three to five years from August to October and with biannual herbicide applications.

Project Location

The LPDD is located immediately below Little Panoche Reservoir in western Fresno County, California. The project area is approximately 26 miles west of the City of Firebaugh, and 26 miles southwest of Los Banos, off of the junction between Little Panoche Road and Interstate 5 in the Laguna Seca Ranch 7.5 minute United States Geological Survey quadrangle map (T13S, R11E, Sections 19, 20, and 30). The area is along the eastside of the Diablo Range bordering the Panoche Hills.

Access to the project site would be through a gated road on the south side of Little Panoche Road next to the public parking area (Figure 2-1).

Project Activities

Maintenance activities would involve removal of emergent wetland vegetation [primarily cattails (*Typha* spp.) and tamarisk (*Tamarix ramosissima*)], as well as removal of accumulated sediment between the discharge structure and the energy dissipater and in the area downstream of the energy dissipater for approximately 300 feet. All excavated material would be placed in the spoil area. An herbicidal spray program would be established and conducted biannually as needed.

The existing road would be used for all work. Prior to conducting project activities the access road may need to be mowed to allow safe access to the project sites. It may also be necessary to scrape the access route if uneven ground makes it unsafe to operate the large equipment. The project area, including all access routes and the spoil area, would be surveyed for sensitive plant and animal species prior to their mowing or use.

The project activities would take place in Channel Area 1, which is between the discharge structure and the energy dissipater; the Channel Area 2, which lies approximately between the energy dissipater and the existing Access Ramp 2, extending about 300 feet downstream of the energy dissipater; and the material spoil area which lies between Channel Area 2 and Access Ramp 2 (Figures 2-1 and 2-2). The existing Access Ramp 1 connects the access

road and material spoil area with Channel Area 1. Access Ramp 2 connects the access road and material spoil area with Channel Area 2.

Mechanical methods would be used to remove the vegetation in Channel Area 1. Removal would begin at the downstream end of Area 1 and would work systematically upstream in the channel towards the discharge structure. Existing riprap downstream of both the discharge structure and the energy dissipater would be evaluated to determine if the riprap should be removed to facilitate water movement in the channel. If the riprap is removed it would be placed adjacent to the riprap area. Once sediment is removed and the area is returned to design grade, the riprap would be replaced according to design grade. Additional riprap would be imported from other San Luis Field Division facilities to make up for losses of existing riprap and to re-set to grade. In Area 2, vegetation would be removed by hand to decrease the impacts in the creek. An estimated 450 cubic yards of excess sediment from the riprap and vegetation removal would be distributed in the material spoil area (Figure 2-2).

Approximately 0.75 acres of riparian and 0.55 acres of upland habitat for the spoil area would be disturbed with this work.

Timing of Construction and Equipment to be Used

A maintenance program would be established at the LPDD and would be conducted by DWR's Civil Maintenance Branch of the San Luis Field Division Operations and Maintenance. Work would include the removal of vegetation and sediment from: the spillway of LPDD, the creek, and the dam face (see Figure 2-1).

Once the project activities described above are completed, vegetation within the maintained areas of the channel is expected to re-establish through vegetative reproduction or through wind-blown seed establishment within one to three years. Water flow in the channel downstream of the dam would be monitored and when the re-established vegetation and accumulated sediment begin to impede water flow in the channel, the described vegetation and sediment removal activities would be conducted again.

This work would be conducted approximately once every three to five years from August to October, depending on the rate of vegetation growth and/or sediment deposition, in order to maintain the structural and design integrity of LPDD. The overall term of this maintenance program would be 10 years.

Normal working hours would be 0630-1700, Monday through Friday inclusive, excluding legal holidays. Construction is scheduled to begin in the first August following completion of environmental compliance and would continue through October.

Equipment to be used for construction is shown in Table 2-1.

Table 2-1. Equipment to be used during construction (once every three to five years).

Type of Equipment	**Max Number per Day**	**Total Op Days**	**Total Op Hours**
Pickup Truck/Flatbed	**8**	**90**	**7200**
Backhoe	**1**	**90**	**900**
Water Truck	**1**	**90**	**900**
CAT D-6 or D-10 Dozer	**1**	**90**	**900**
CAT 966 Loader	**1**	**90**	**900**
Dump Truck	**1**	**90**	**900**
CAT 375 Excavator	**1**	**90**	**900**

* A 10-hour per day, 5 day work week is assumed

Staging Areas and Access Routes

Staging areas for construction equipment would be in the spoil site or along the access road up above the creek. Personnel vehicles would park in existing parking locations just below the Dam or on existing road shoulders.

Existing dirt roads that are maintained annually by DWR Operations and Maintenance would be used to access the entire site.

Conservation Measures

The following conservation measures are incorporated into the Proposed Action to protect the California red-legged frog and San Joaquin kit fox (along with certain other special-status species that are not Federally listed).

California red-legged frog measures

California red-legged frog measures are based on the minimization measures developed by the USFWS for previous Biological Opinions and through consultation with the USFWS:

1. DWR would submit to the USFWS (at least 15 days prior to onset of activities) the names and credentials of the biologists who would conduct the activities specified in the following measures. No project activities would begin until DWR has received written approval from USFWS that the biologist(s) is qualified to conduct the work. Only USFWS-approved biologists shall participate in activities associated with the capture, handling, and monitoring of California red-legged frogs.

2. Maintenance of the creek channel shall be completed between August 1 and October 31.

3. A USFWS-approved biologist(s) would survey the work sites within two weeks of the onset of activities for any sensitive species. The site would be monitored throughout the maintenance activities. Biological monitors would remove the frogs on the same day as the maintenance activities, both before and during the vegetation

and sediment removal. Dredge material would be carefully placed in the truck bed and examined for frogs.

4. Before any construction activities begin on the project, a USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description and importance of the California red-legged frog and its habitat, the general measures that are being implemented to conserve the California red-legged frog as they relate to the project, and the boundaries within which the project may be accomplished.

5. Wetland vegetation within the project area would be trimmed prior to removal for better visualization of any sensitive species within the project site.

6. Care would be taken to minimize frog exposure to hydrogen sulfide. A minimum of one hour would pass after all maintenance has passed before replacing the frogs.

7. All frogs but bullfrogs would be placed in a cool, clean container with fresh, clean, cool water. Adult and sub-adult California red-legged frogs would be kept in separate containers. Bullfrogs would be placed in a separate container and removed from site.

8. The Lindsey Wildlife Museum in Walnut Creek, California, would be notified and potentially sent any injured California red-legged frogs for rehabilitation, if the museum is able to accept them.

9. A USFWS-approved biologist shall be present at the work site until such time as the instruction of workers, removal of California red-legged frogs during the maintenance activities, and habitat disturbance have been completed. For the remainder of any maintenance activities, DWR shall designate a person to monitor on-site compliance. The USFWS-approved biologist shall ensure that this individual receives training outlined above in Measure 4 and in the identification of California red-legged frogs. The monitor and the USFWS-approved biologist shall have the authority to halt any action that might result in impacts that exceed the levels anticipated by Reclamation and USFWS during review of the Proposed Action. If work is stopped, Reclamation and USFWS shall be notified immediately by the USFWS-approved biologist or on-site biological monitor.

10. During project activities and following construction, all trash shall be properly contained, removed from the work site, and disposed of properly.

11. All fueling and maintenance of vehicles or other equipment and staging areas shall occur at least 66 feet from any water body. Reclamation and DWR shall ensure that contamination of habitat does not occur during such operations. Prior to the onset of work, Reclamation shall ensure that DWR has prepared a plan to allow prompt and effective response to any accidental spills. All workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.

12. A USFWS-approved biologist shall ensure that the spread or introduction of invasive exotic plant species be avoided to the maximum extent possible by keeping the impact area to a minimum. When practicable, invasive exotic plants in the project areas shall be removed.

13. The number of access routes, number and size of staging areas, and the total area of the activity shall be limited to the minimum necessary to achieve the project goal. Routes and boundaries for access and staging shall be clearly demarcated, and these areas shall be outside of wetland areas.

14. To control erosion during and after project implementation, DWR shall implement best management practices, as identified by the Regional Water Quality Control Board. The creek banks would be stabilized by compacting additional soil after sediment and vegetation removal, in order to minimize the potential for erosion. Additionally, if the channel contains flowing water during August, September and October, a silt fence would be installed directly downstream of the project area. This would help to prevent silt accumulation downstream of the project site.

15. If the work site is to be temporarily de-watered by pumping, pump intakes shall be completely screened with wire mesh not larger than five mm to prevent California red-legged frogs from entering the pump system. Water shall be released or pumped downstream at an appropriate rate to maintain downstream flows during construction. Upon completion of construction activities, any barriers to flow shall be removed in a manner that would allow flow to resume with the least disturbance to the substrate.

16. A USFWS-approved biologist shall permanently remove from within the project area any individuals of exotic animal species such as bullfrogs, non-native crayfish and centrarchid fishes (sunfish family) to the maximum extent possible. DWR would ensure that these activities are in compliance with the California Fish and Game Code.

California red-legged frog relocation and monitoring plan

1. Within two weeks of the proposed start date, pre-construction surveys would take place for the California red-legged frog, as well as for other listed and sensitive species that may be found in the vicinity;

2. At the time of the pre-construction surveys, project boundaries would be clearly demarcated including construction areas, access roads, and staging areas using lathes and colored flagging;

3. The maintenance project would take place during the non-breeding season and driest time of the year (August through October). This would avoid the entire breeding season of the frogs (November through May) and would also minimize disturbance to any water still present in the drainage;

4. Just prior to the onset of the sediment and vegetation removal, the wetland vegetation would be trimmed such that visibility into the bottom of the pond or

drainage would improve. The USFWS-approved biologists would walk the project area and remove frogs. As the backhoe or excavator reaches in to remove the material, the biologists would be just ahead of it and would look for frogs being displaced by the maintenance activity. All frogs would be placed in a cool, clean container with fresh, clean and cool water, separated by age-classes and species. Another biologist would be checking for frogs when the material is placed into the dump truck. The material would be gently released from the backhoe or excavator, allowing any more frogs to emerge and be captured;

5. As required by the USFWS, all biologists doing the actual capture and relocation of the red-legged frogs would be pre-approved by the USFWS.

Water quality protection measures

Certain measures aimed at protecting water quality are also relevant for the California red-legged frog. DWR would obtain a Streambed Alteration Agreement from DFG, which is expected to contain conditions that would protect water quality. The following measures are also incorporated into the Proposed Action:

1. Silt fencing, straw wattles and straw bales would be utilized to intercept, slow and retain water/sediment in storm water runoff. These protection measures would be utilized in areas of slopes greater than 2:1, or where runoff from the disturbed area would impact local creeks or channels.

2. All drainage slopes would be stabilized with straw, jute netting, or other industry accepted methods for soil stabilization.

3. To avoid runoff, only as much water as necessary would be used for dust control.

4. Spills and leaks would be cleaned up using "dry" methods (with absorbent materials/rags), or contaminated soil would be dug up and removed.

5. Stockpiles and other construction materials would be covered with plastic tarps when material sits for more than seven days. Protection from rainfall and prevention of runoff would include temporary plastic sheets and berms.

6. If standing water is encountered in any of the stream crossings a temporary dike would be established upstream from the work area to create a ponding area. In the event that the water is flowing, a temporary culvert across the work area would be installed to allow the water to continue downstream, leaving the work area dry.

San Joaquin kit fox conservation measures

1. Surveys for San Joaquin kit fox dens would be conducted within 14-30 days of the start of work at the project site in all areas within 200 feet of any disturbance area including work areas and access routes.

2. Potential kit fox dens located within 100 feet of a disturbance area would be tracked for three consecutive nights to determine if they have any current kit fox use.

3. A 50-foot buffer zone would be marked around any potential or atypical kit fox dens located between 50 feet and 200 feet of a disturbance using lathes and red flagging.

4. Any potential kit fox dens located within 50 feet of a disturbance area would be temporarily blocked with burlap bags filled with soil (after three consecutive nights of tracking have been completed without evidence of kit fox use) to prevent kit fox use of these dens during the project.

5. A 100-foot buffer zone would be marked around any known kit fox den within the survey area using lathes and red flagging.

Other special-status species conservation measures

The following measures apply to multiple special-status species, including Federally listed species, migratory birds, and other sensitive species:

1. All activities would be implemented in coordination with protection, avoidance, and/or minimal impacts of existing habitats.

2. All areas where sensitive plants and animals may occur would be flagged and avoided to the greatest extent possible.

3. All activities would be completed in a timely manner.

4. All contractors and equipment operators would be given written and oral instructions to avoid impacts and be made aware of ecological values of the site. A fact sheet covering this information would be distributed to all contractors and their employees, including personnel who occasionally visit the site or deliver materials. Biologists shall conduct an educational training session (tailgate training session) for all onsite personnel. The program shall consist of a brief presentation explaining listed species concerns and would include:

    i. A description and photograph of each of the sensitive species and their habitat needs.

    ii. An explanation of the status of these species during project construction and implementation.

    iii. A discussion of the protection measures that would be implemented to reduce impacts to the species during project construction and implementation.

    iv. All the above provisions would be included in construction contracts, and meetings to discuss these provisions would be conducted with construction crew members. An environmental monitor would be responsible for evaluating and documenting contractor compliance with all measures.

5. Prior to conducting work surveys would be conducted by qualified wildlife biologists to determine whether or not sensitive terrestrial wildlife or plants occur within the project area. If any evidence of SJKF activity is found, the USFWS Sacramento Field Office and DFG would be contacted to identify further action.

6. A DWR biological monitor would be on-site at all times during project work. The monitor would check the site before work commences for sensitive wildlife or plants, assist in avoiding impacts to wildlife and habitats, determine the least damaging options for removal or transplantation of vegetation according to established protocols, and provide technical information.

7. Project-related vehicles shall observe a 15-mph speed limit in all project areas, except on county roads and State and Federal highways. To the extent possible, night-time activity should be minimized; for example equipment repair or hazard spill cleanup. Off-road traffic outside of designated project areas would be prohibited.

8. Excavating, filling, and other earth moving would be done in a cautious manner with a biological monitor present to allow wildlife species to escape in advance of machinery and moving materials.

9. Surveying and monitoring activities would be designed and conducted to minimize disturbance of wildlife and their habitat.

10. Because all work would be conducted outside the nesting season (there is no nesting from August 1 through February 28), impacts to breeding birds would be avoided.

11. To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a project, all excavated, steep-walled holes or trenches more than two feet deep would be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks with a slope of 2:1. Before such holes or trenches are filled, they would be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the procedures of the standardized recommendations must be followed (USFWS 1999).

12. All food-related trash items such as wrappers, cans, bottles, and food scraps would be disposed of in closed containers and removed at least once a week from a construction or project site (USFWS 1999).

13. No firearms shall be allowed on the project site (USFWS 1999).

14. To prevent harassment, mortality of kit foxes or destruction of dens by dogs or cats, no pets would be permitted on project sites (USFWS 1999).

15. Construction would be limited to daytime hours.

Air quality protection measures

To decrease the Visible Dust Emissions (VDE) to below 20% opacity during periods when soil is being disturbed by equipment or by wind, water would be applied before/during earthwork and onto unpaved traffic areas and work may be phased to limit dust. Soil stabilization would also be required after normal working hours and on weekends and holidays. Water would be applied to form a visible crust on the soil and vehicle access would be restricted. Vegetation would be allowed to grow on the soil surface. To further reduce the impacts to air quality, all unpaved access and haul roads, as well as any unpaved vehicle and equipment traffic areas would be maintained with dust control. A water truck would be operated to decrease the amount of dust emitted. All staff onsite would adhere to a project speed limit of 15 mph or less while on the project area.

Equipment that would be used during construction is listed in Table 2-1. In order to reduce air quality impacts, the required state and Federal emission quality control technologies would be implemented; all equipment would have properly operating mufflers and exhaust systems.

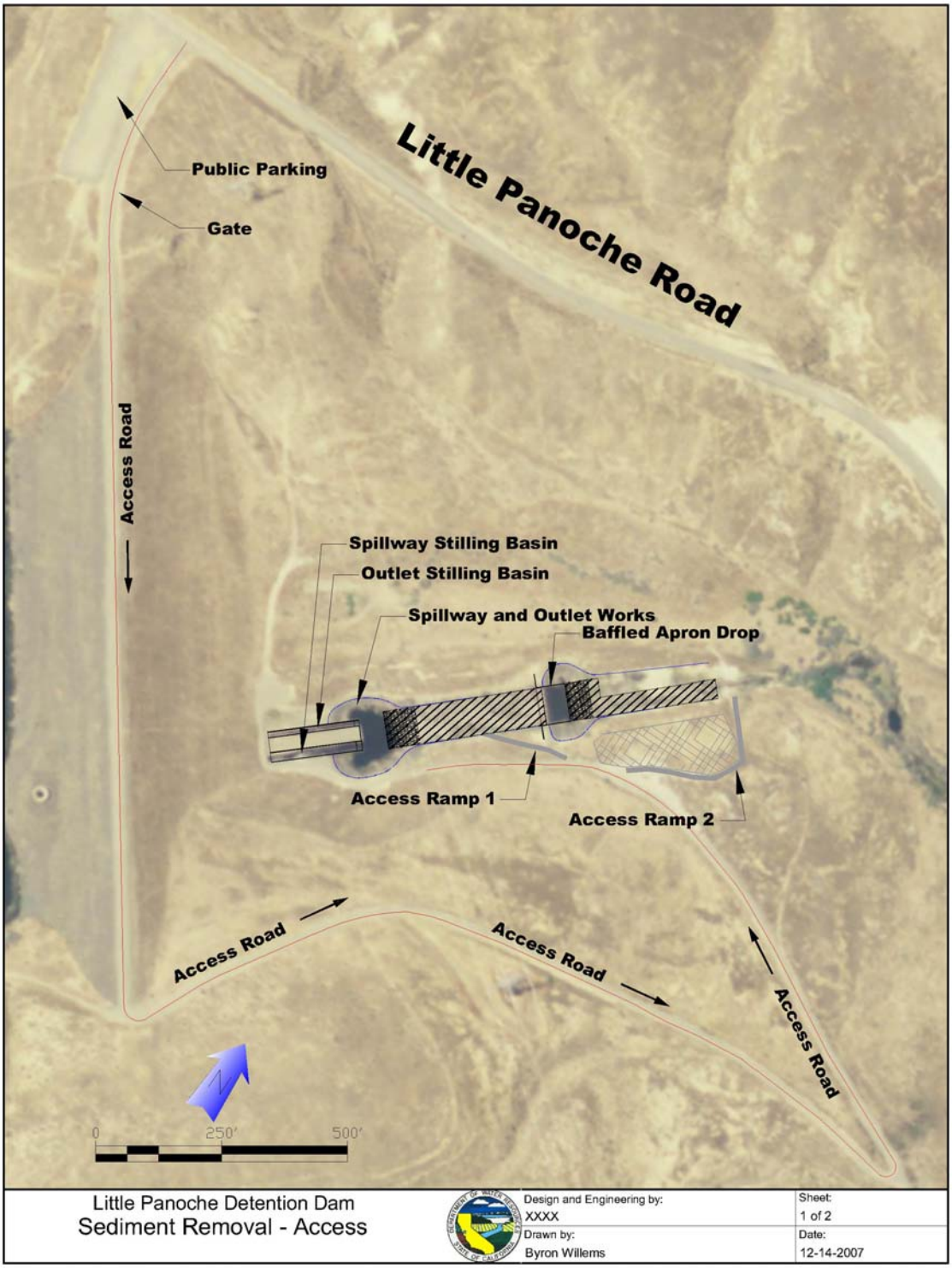


Figure 2-1. Project access route.

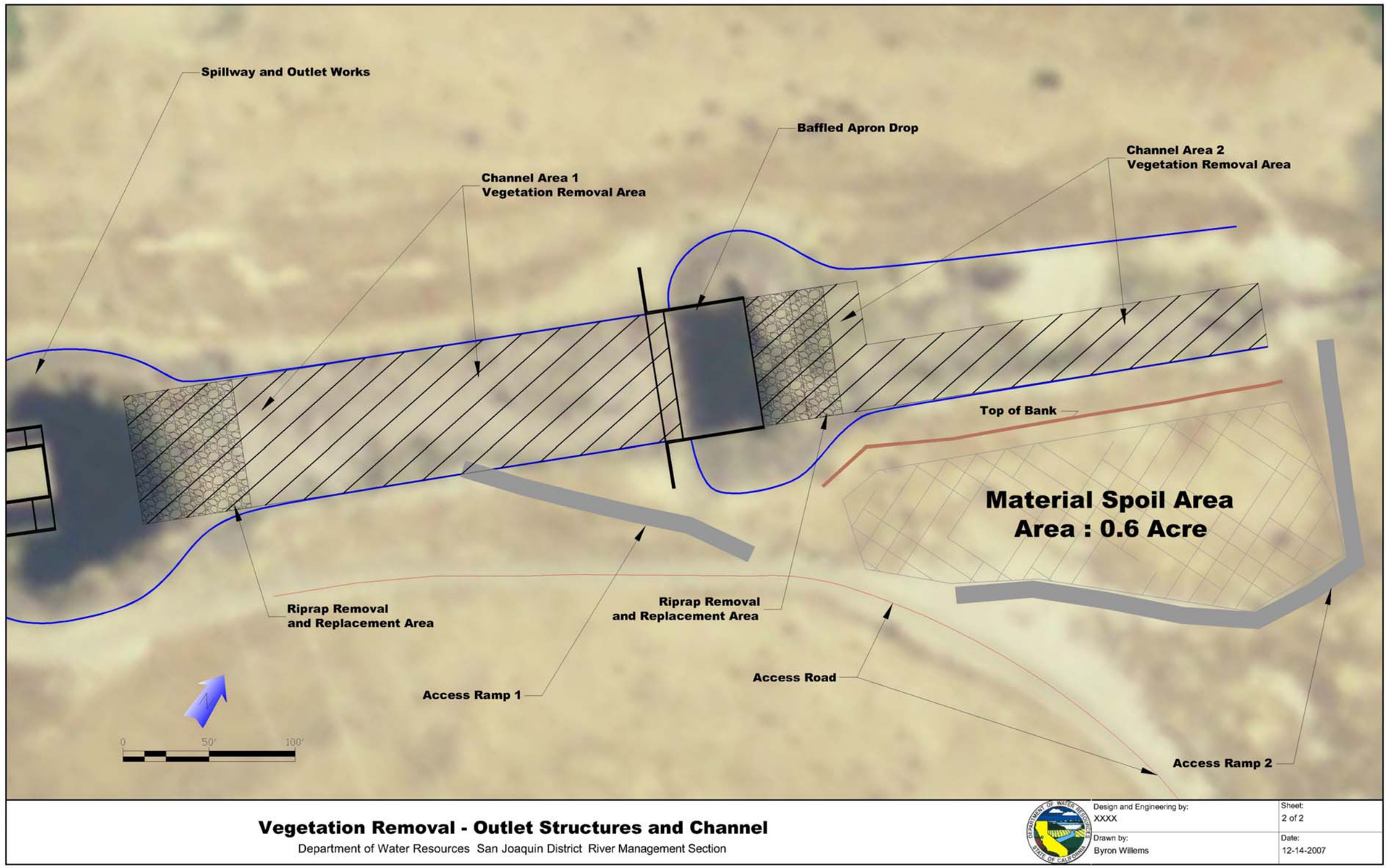


Figure 2-2. Project structures and channel information.

Section 3 Affected Environment & Environmental Consequences

3.1 Aesthetics

3.1.1 Affected Environment

The proposed project activities would be conducted on and near an existing flood control facility located approximately 26 miles from the nearest community and approximately five miles west of Interstate 5. The land surrounding the project area is dedicated to rangeland and managed wildlife area uses.

3.1.2 Environmental Consequences

No Action

Under the No Action Alternative, no change in visual resources from the current conditions is expected to occur.

Proposed Action

Under the Proposed Action, there would be temporary access and construction in and immediately adjacent to the creek channel from August-October, up to three times over the next 10 years, as well as activities conducted biannually under an herbicidal spray program. No construction work would occur in the wildlife area, where the public may visit for wildlife viewing, and for hunting during allowed seasons. None of the proposed work would alter any scenic vistas, damage scenic resources, degrade the visual characteristic of the site, or adversely affect day or nighttime views. The project would not create light or glare.

3.2 Air Quality

3.2.1 Affected Environment

The project area itself is relatively small and not subject to a high level of human-generated air-quality degradation. The San Joaquin Valley is listed as a Federal serious non-attainment area (Environmental Protection Agency 2008) and a State non-attainment area for PM_{10} particle sizes.

3.2.2 Environmental Consequences

No Action

Under the No Action Alternative, the only air quality impacts directly generated at the project site would be from periodic site access of a few vehicles along the unpaved access road, related to monitoring activities by DWR and road maintenance. However, pollutants generated elsewhere would also occur in the air at the site, due to the fact that wind will mix air and carry pollutants across distances.

Proposed Action

Project activities may potentially result in localized, short-term emissions from stationary, mobile, and area sources. Emissions may include hydrocarbons, nitrogen oxides, carbon monoxide, and particulate matter. Hyrdocarbons, nitrogen oxides, and carbon monoxide may be emitted in equipment exhaust. The pollutant of greatest concern for the Proposed Action is fine

particulate matter (PM_{10}), primarily emitted as fugitive dust, although motor vehicles and equipment used during the proposed work may also contribute to an increased level, as PM_{10} can be emitted directly from combustion processes.

The San Joaquin Valley Unified Air Pollution District has a number of regulations and requirements to reduce air quality impacts. Regulation VIII, Fugitive PM_{10} Prohibitions**,** of the District's Rules and Regulations apply to many activities that generate fugitive dust, and particularly to construction sites. Visible Dust Emissions (VDE) may not exceed 20% opacity during periods when soil is being disturbed by equipment or by wind at any time. Visible Dust Emissions opacity of 20% means dust that would obstruct an observer's view of an object by 20%. The State Standard for PM_{10} is 50 $\mu g/m^3$, based on a 24-hour average (geometric mean), and the Federal Primary Standard is 150 $\mu g/m^3$ which is also based on a 24-hour average (geometric mean). For unpaved roads and unpaved traffic areas, a Fugitive PM_{10} Management Plan may be implemented as a compliance alternative to the VDE standard and the requirement to maintain a stabilized unpaved road surface, per Section 7.0 of Rule 8011 (i.e. meeting the 20% VDE standard would meet the standards for PM_{10}).

The air quality protection measures in the project description would reduce VDE to below 20% and would reduce vehicle- and equipment-generated emissions that would occur as a result of the Proposed Action. The incorporated air quality protection measures would reduce the cumulative contribution to air quality impacts.

3.3 Biological Resources

3.3.1 Affected Environment

Habitat in Project Area

Project activities would be located downstream of the LPDD within the spillway and 300 linear feet of Little Panoche Creek. The habitat in the area is dominated by non-native grassland with scattered shrubs, predominately quailbush (*Atriplex lentiformis*), Valley saltbush (*Atriplex polycarpa*), bladderpod (*Isomeris arborea*), and goldenbush (*Isocoma acradenia*). Little Panoche Creek is an ephemeral creek flowing intermittently during the winter. The channel is very alkaline in nature and contains tree tobacco (*Nicotiana glauca*), tamarisk (*Tamarix* ssp.), iodine bush (*Allenrolfea occidentalis*), alkali heath (*Frankenia salina*), saltgrass (*Distichlis spicata*) and a thick growth of cattail (*Typha latifolia*); the creek does not support the growth of native riparian trees.

Because the ponded area contains water year round, there are dense mats of cattail growth. The spillway structure contains accumulated sediment which has allowed vegetation to grow within the structure.

There is no proposed or designated critical habitat in the affected area, including recently proposed California red-legged frog critical habitat.

Special-Status Species

Special-status species are plants and animals that are legally protected under the State and Federal Endangered Species Acts or other regulations, and species that are considered sufficiently rare by the scientific community to qualify for such listing. A species list from the USFWS was most recently downloaded on March 13, 2009, which was last updated on January

29, 2009. Please see Appendix 1 for the list. The California Natural Diversity Database (CNDDB) has been continually consulted for known occurrences of special status species in the project area, with each updated version of the CNDDB being rechecked. A site visit was made by USFWS staff (Brian Peterson) on September 14, 2005.

Special-Status Plants

Special-status plants with potential to occur in the LPDD are listed in Table 1. Gypsum-loving larkspur (*Delphinium gypsophilum* ssp. *Gypsophilum*) and recurved larkspur (*Delphinium recurvatum*), are located on the hillsides of the project area.

Special-Status Wildlife

According to the species list generated from USFWS and CNDDB for the project area twenty-four species could potentially occur in the project vicinity. Four of the wildlife species that potentially occur in the project area are Federally listed as endangered, three species are Federally listed as threatened, three species are listed as State endangered, and three species are listed as State threatened. The remaining wildlife species listed in Table 3-1 are Federally listed as species of concern, state species of concern, or species Fully Protected by the state.

Two Federally listed species have some likelihood of occurring in the project area. The California red-legged frog (*Rana auroura draytonii*), a Federally threatened species, was observed in 2001 in Little Panoche Creek approximately 200 feet downstream of the project area, although surveys since 2001 have yielded negative results for both adult frogs and egg masses. California red-legged frogs have lost 70% of their historic range in California due to habitat loss, overexploitation, introduction of exotic predators, water diversion and subsequent habitat fragmentation, grazing, and prolonged drought. California red-legged frogs are present in 243 streams/drainages in 22 counties, primarily along the central coast of California. Within the Central Valley, only 14 drainages in the Coast Range (USFWS 1996) and three drainages in the Sierra Nevada foothills are actually known to support California red-legged frogs. In 2001 one individual San Joaquin kit fox was observed near the entrance to the reservoir (CNDDB 2007). The surrounding area is suitable habitat for San Joaquin kit fox, although no dens have been observed in the project area.

Other Federally listed species do not occur in the area. There are no elderberry shrubs in the project area that would provide habitat for the valley elderberry longhorn beetle. There are no vernal pools or seasonal wetlands located within the project area that would support breeding for either the western spadefoot toad (*Spea* [*Scaphiopus*] *hammondii*) or the California tiger salamander. Small mammal trapping surveys conducted over multiple years in the LPDD project area have not resulted in capture of any special status *Dipodomys* species. The Little Panoche Hills and valley is within the historic range for blunt-nosed leopard lizard (*Gambelia sila*). Protocol-level surveys for this species have been conducted over multiple years (2001 and 2004) along the upland habitat surrounding Little Panoche Creek. These surveys did not detect this species. Heermann's kangaroo rat (*Dipodomys heermanni*), and subsequently burrows required by blunt-nosed leopard lizards, are locally abundant in the upland portion of the area. Other lizards such as western whiptail (*Cnemidophorous tigris*) and side-blotched (*Uta stansburiana*) are also abundant in the upland portion of the LPDD area. However, small mammal burrows and typical common lizard species are extremely sparse in the surveyed portion along the creek.

Some migratory birds and two other special-status species do occur or may occur in the project area. The San Joaquin pocket mouse (*Perognathus inornatus inornatus*) has been observed on the site (trapped in 2001). Habitat exists for the San Joaquin whipsnake (*Masticophis flagellum ruddocki*) and this species has been observed in the grassland hills surrounding the project area. The Swainson's Hawk, Golden Eagle, California Horned Lark, and Prairie Falcon may use the project area as foraging habitat but no breeding habitat exists on or in proximity to the project area. The White-tailed Kite (*Elanus leucurus*), Northern Harrier (*Circus cyaneus*), and Tricolored Blackbird (*Agelaius tricolor*) use the project area as foraging habitat but no breeding habitat exists on or in proximity to the project area.

Other non-listed special status species are not expected to occur in the project area. Western pond turtle are not known to occur in the Little Panoche watershed although the reservoir does have suitable habitat. There are no areas within Little Panoche Creek downstream of the Dam that retains water for any significant period of time, and in areas where water does remain for 2-3 months after a flood event, the water is typically extremely shallow (<6 inches). Therefore, there is no suitable habitat for turtles present in the project area. Western Burrowing Owls (*Athene cunicularia hypugea*), have not been observed at the LPDD project area. The upland areas surrounding LPDD which provide potential burrowing owl foraging and nesting habitat would not be disturbed by this project. The CNDDB does not include any known populations of western spadefoot toad, California tiger salamander, western pond turtle, San Joaquin antelope squirrel, giant kangaroo rat, and short-nosed kangaroo rat in the Little Panoche Creek watershed.

Table 3-1. Special status species for Little Panoche Detention Dam.

Common Name	Scientific Name	Status[a]
Mammals		
San Joaquin antelope squirrel	*Ammospermophilus nelsoni*	FSC;ST
*San Joaquin pocket mouse	*Perognathus inornatus inornatus*	FSC
Giant kangaroo rat	*Dipodomys ingens*	FE;SE
Fresno kangaroo rat	*Dipodomys nitratoides exilis*	FE;SE
Short-nosed kangaroo rat	*Dipodomys nitratoides brevinasus*	FSC;CSC
*San Joaquin kit fox	*Vulpes macrotis mutica*	FE;ST
Birds		
*White-tailed Kite	*Elanus leucurus*	FSC;SFP
*Northern Harrier	*Circus cyaneus*	CSC
Swainson's Hawk	*Buteo swainsoni*	FSC;ST
Golden Eagle	*Aquila chrysaetos*	SFP;CSC
Prairie Falcon	*Falco mexicanus*	CSC
Western Burrowing Owl	*Athene cunicularia hypugea* (burrows)	FSC;CSC
California Horned Lark	*Eremophila alpestris actia*	CSC
*Tricolored Blackbird	*Agelaius tricolor*	FSC;CSC
Reptiles		
Western pond turtle	*Clemmys marmorata*	FSC;CSC
Blunt-nosed leopard lizard	*Gambelia sila*	FE;SE
San Joaquin whipsnake	*Masticophis flagellum ruddocki*	FSC;CSC
Amphibians		
California tiger salamander	*Ambystoma californiense*	FT;CSC
*California red-legged frog	*Rana auroura draytonii*	FT;CSC

Common Name	Scientific Name	Status[a]
Foothill yellow-legged frog	*Rana boylii*	FSC;CSC
Western spadefoot toad	*Spea* (*Scaphiopus*) *hammondii*	FSC;CSC
Invertebrates		
Valley elderberry longhorn beetle	*Desmocerus californicus dimorphus*	FT
Plants		
*gypsum-loving larkspur	*Delphinium gypsophilum* ssp. *gypsophilum*	CNPS 4
*recurved larkspur	*Delphinium recurvatum*	FSC;CNPS 1B
[a]FE:Federal Endangered; FT:Federal Threatened; FSC:Federal Species of Concern; SE:State Endangered; ST:State Threatened; SFP: State Fully Protected; CSC:California Species of Concern; CNPS Special Plant Lists		
* Known to occur in the Project area.		

3.3.2 Environmental Consequences

No Action

Under the No Action Alternative, DWR would continue to access the site for monitoring purposes, and would conduct road maintenance but this would result in very little disturbance of special-status species. If the dam failed and a flood occurred, special-status amphibians such as the California red-legged frog could be washed downstream and possibly injured or killed. Such flooding could also possibly drown kit foxes in their dens, along with other species that use underground burrows, and might result in some minor loss of foraging habitat.

Proposed Action

Under the Proposed Action, certain impacts to special-status species and their habitats would occur from August-October, 2-3 times during a 10-year period, as well as biannual activities conducted under an herbicidal spray program. These impacts would be minimized as much as possible by the incorporation of appropriate conservation measures into the project description.

Approximately 0.6 acres of upland habitat would be affected by placement of spoils. About 0.75 acres of wetland habitat and open creek channel would be subject to removal of sediment and vegetation.

As the special-status plant species are located on the hillsides of the project area, these areas would not be accessed during the project and thus any impacts to these species would be avoided.

The California red-legged frog may be directly affected by the Proposed Action through habitat loss and degradation, possible exposure to herbicides, and changes to water quality. Adverse effects to California red-legged frogs and their habitat shall be minimized to the greatest extent possible.

It is unlikely that a kit fox would occupy the action area during the 10-year life of the Proposed Action. The project is mostly restricted to the creek and immediate area, which provide little or no kit fox habitat. Project-related vehicles would maintain a 15 mph or lower speed on the

access road leading from the parking area to the project site, and nighttime activity would be avoided. There are currently no dens in the project area, but because the action is a 10-year program, it is possible there may be potential dens during the life of the Proposed Action. In that case, once a den was determined to be unoccupied, it would be temporarily blocked with burlap sacks to protect any kit fox that might try to use the den during project activities (see #4 in the list of San Joaquin kit fox conservation measures). Temporary disturbance to low quality potential San Joaquin kit fox habitat would occur, but the habitat would be improved following construction.

Special-status small mammals (of which only the San Joaquin pocket mouse is expected to occur at the site) would not be affected because small mammal burrows would be avoided, the project is largely confined to the creek and adjacent areas, and because nighttime work would be avoided. Upland habitats that provide suitable habitat (e.g. small mammal burrows) for the blunt-nosed leopard lizard would be avoided, which would avoid impacts on the species.

Based on survey results, the Western Burrowing Owl is not expected to occur at the site. However, prior to the start of work, surveys would be conducted for this species within suitable habitat in the project area and also within a 500-foot buffer. If burrowing owls are found in these areas, DFG would be contacted immediately to discuss proper mitigation and avoidance measures designed to minimize effects on burrowing owls.

For the San Joaquin whipsnake, prior to the commencement of any work the project area would be surveyed by a qualified biologist. Biological monitors would be on-site during construction to capture and move any displaced San Joaquin whipsnake if necessary.

The project area does not have breeding habitat for the Swainson's Hawk, Tricolored Blackbird, Golden Eagle, California Horned Lark, and Prairie Falcon. Any disturbance of their foraging habitat would be very minor, as the project is restricted to the creek, the adjacent spoil area, and the access roads.

Overall, there are not expected to be a large number of future cumulative effects, because the affected area is under Reclamation's ownership and not subject to future land use changes. However, the following cumulative effects are reasonably foreseeable, are ongoing, or have likely occurred in the past. Cumulative effects on special-status species may include rodenticide use on nearby rangelands. Rodenticides can poison small mammals and species that prey upon them, and lead to a reduction in small mammal burrows that are used as refugia by some amphibians and lizards. Periodic road maintenance may also result in some minor impacts on upland species. When the dam was constructed, it presumably resulted in a loss of aquatic habitat for the California red-legged frog and perhaps other species, such as the Tricolored Blackbird, even though minimal releases of water are still made to support some habitat.

As a result of the implementation of appropriate conservation measures, these effects would be minimized to a point that would not result in population-level impacts, although some individuals would likely be adversely affected.

3.4 Cultural Resources

3.4.1 Affected Environment

Reclamation determined that the area of potential effects (APE) is a 1.3-acre area that includes the outlet works and channel at the base of LPDD within Little Panoche Creek. This portion of the creek was entirely channelized and re-contoured during construction of the dam, concrete discharge structure, and concrete energy dissipater. Reclamation reviewed its archaeological site index and project data. A Reclamation archaeologist surveyed about one acre, including the spoiling area and access ramp two within the APE on June 26, 2008, using five parallel transects spaced about 10 meters apart. The remaining 0.3 acres of the APE were not surveyed because of its location in the constructed outlet channel.

3.4.2 Environmental Consequences

No Action

Under the No Action Alternative, DWR would continue to access the site for monitoring purposes, and would conduct road maintenance. There would be no impacts to cultural resources under the No Action Alternative since conditions would remain the same as they currently are.

Proposed Action

Little Panoche Detention Dam is not greater than 50 years old and does not meet the age criteria for consideration as a historic property pursuant to 36 CFR Part 60.4. The dam does not appear to possess characteristics of design, construction, or association that have exceptional importance in the history of local flood control or the CVP San Luis Unit.

As the proposed project would be confined to the constructed features of LPDD, Reclamation determined that it was not necessary to consult with Indian tribes. All work would be limited to the existing structural footprint of the dam outlet works and developed portion of Little Panoche Creek. These activities are consistent with the operation and maintenance of this facility to convey water.

Based on the above findings, Reclamation concluded that no historic properties would be affected by vegetation and sediment removal at LPDD pursuant to 36 CFR Part 800.4(d)(I). Reclamation consulted with the SHPO regarding this undertaking on August 8, 2008. The SHPO concurred with Reclamation's findings and determination on August 18, 2008 (letter BUR080808A).

3.5 Hydrology and Water Quality

3.5.1 Affected Environment

As explained previously in the background section, Little Panoche Creek is an ephemeral creek which has its headwaters in the Glaucopane Ridge in San Benito County. The channel is very alkaline in nature. It flows into western Fresno County where it is dammed at LPDD. Streamflow in Little Panoche Creek below the dam consists primarily of reservoir releases, which vary according to water levels in the reservoir. A very small amount of water is released continuously to provide habitat for riparian obligate species. There is a ponded area that contains water year round.

3.5.2 Environmental Consequences

No Action

Under the No Action Alternative, Reclamation and DWR would not conduct sediment and vegetation removal. Flow in the channel would continue to decrease as a result of continued sediment accumulation and vegetation growth. The LPDD could overtop or otherwise fail, which would cause scouring of the channel downstream of the dam and likely result in at least temporary water quality degradation, as accumulated sediment would be suddenly washed downstream. The SLC and downstream farmland and urban development would be flooded. However, under the No Action Alternative, minor impacts on water quality associated with vegetation and sediment management would not occur.

Proposed Action

Under the Proposed Action, Reclamation and DWR would conduct sediment and vegetation removal activities over the next 10 years, up to three times, as well as apply herbicides biannually under an herbicidal spray program. Minimal water releases for riparian habitat would continue downstream of the dam. Flow in the creek would improve and the SLC would be better-protected from flooding. The Proposed Action would benefit water resources and would not contribute cumulatively to any adverse impacts.

The Proposed Action entails removing vegetation and accumulated sediment from the channel. This work would be conducted during the dry season when the channel is more likely to be dry; the project would take place during August through October when the creek is not running and when there is very little water in the channel. During project activities, DWR would comply with all conditions of the Streambed Alteration Agreement, which is likely to include measures such as stabilizing drainage slopes to prevent erosion into the creek, covering any stockpiled soil to prevent dust and siltation into the creek, and utilizing drip pans or absorbent material to catch drips from equipment while parked. Any equipment that is leaking fluid shall be fixed immediately or removed from the jobsite.

The Proposed Action would not deplete groundwater supplies, or interfere with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. The Proposed Action would not alter the existing drainage pattern of the site.

The Proposed Action is to conduct maintenance on an existing flood control facility and would not result in a substantial increase in the rate or amount of surface runoff in a manner in which would result in flooding on or off-site. The project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.

3.6 Wetlands and Waters of the United States

3.6.1 Affected Environment

As explained earlier, Little Panoche Creek is an ephemeral creek flowing intermittently during the winter and it supports hydrophytic vegetation (e.g. cattails). The ponded area contains water year-round and has a thick growth of cattails. Please see Appendix 2 for photographs that provide some indication of the hydrology and presence of hydrophytic vegetation.

Little Panoche Creek was found not to be under the jurisdiction of the Corps, pursuant to Section 404 of the Clean Water Act (DWR completed a wetland delineation on June 26, 2008, sent it to the Corps for verification, and the Corps disclaimed jurisdiction—see Appendix 3).

3.6.2 Environmental Consequences

No Action

Under the No Action Alternative, the streambed of Little Panoche Creek would not be intentionally filled (although sediment would continue to accumulate over the next 10 years).

Proposed Action

The Proposed Action is expected to result in the fill of a portion of the Little Panoche Creek streambed, but not waters of the U.S. Riprap removal and replacement would affect a total of approximately 0.15 acres, up to three times total (i.e. a total of about 0.45 acres). Historically, there was likely a loss of wetlands/waters when the LPDD was constructed, even though Reclamation makes a minimal release of water to allow riparian habitat to be maintained below the dam. However, losses as a result of the project would be restricted to the smallest area possible, and would not exceed the level of loss that was associated with the original construction of the dam, so that the Proposed Action would not cause a further cumulative loss.

Section 4 Consultation and Coordination

4.1 Clean Air Act (42 USC §7401 et seq.)

The Clean Air Act is a comprehensive Federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes the Environmental Protection Agency to establish National Ambient Air Quality Standards to protect public health and public welfare and to regulate emissions of hazardous air pollutants.

The Proposed Action is consistent with the Environmental Protection Agency's General Conformity Rule under the Clean Air Act. The project would incorporate measures to protect air quality, to State Standards, which would also ensure that Federal Standards are met. The project would not generate greater than 20% opacity for PM_{10}.

4.2 Clean Water Act (33 USC §1251 et seq.)

Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects, infrastructure development and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation. A wetland delineation was prepared and submitted to the Corps. The Corps disclaimed jurisdiction over the waters, as the creek in the project area was determined to be an instrastate isolated water with no apparent interstate or foreign commerce connection.

Section 401 of the Clean Water Act establishes a program to allow States and Tribes to review and approve, condition, or deny all Federal permits or licenses that might result in a discharge to State or Tribal waters, including wetlands. The Regional Water Quality Control Board administers the 401 program for the Central Valley region of California. DWR applied for and obtained a 401 Water Quality Certification from the Central Valley Regional Water Quality Control Board. However, following the receipt of the certification, it was subsequently determined that no permit was needed under Section 404 of the Clean Water Act.

4.3 Endangered Species Act (16 USC §1521 et seq.)

Section 7 of the Endangered Species Act requires Federal agencies, in consultation with the Secretary of the Interior/Commerce, to ensure that their actions do not jeopardize the continued existence of endangered or threatened species, or result in the destruction or adverse modification of the critical habitat of these species.

Reclamation will submit a Biological Assessment to the USFWS for consultation on the California red-legged frog and the San Joaquin kit fox. Reclamation would not take the Proposed Action until consultation with the USFWS has been completed. No anadromous fishes or their critical habitat occur in the affected area, and so no consultation with the National Marine Fisheries Service is needed.

4.4 Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority and Low-Income Populations

Executive Order 12898 established the priority of analyzing environmental justice for any action that could cause disproportionately high and adverse human health or environmental effects to a minority and/or disadvantaged populations. The Proposed Action is strictly a maintenance project and is not located in an area with minority or low-income populations, and therefore it would not affect such populations.

4.5 Executive Order 11988 – Floodplain Management and Executive Order 11990 – Protection of Wetlands

Executive Order 11988 requires Federal agencies to prepare floodplain assessments for actions located within or affecting flood plains. The project would occur at least partially in a floodplain. However, the Proposed Action would protect life and property from downstream flooding, rather than increase the risk.

Executive Order 11990 minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. The order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property. This Proposed Action would occur on Federal property, and so the order applies. The Proposed Action is a water-dependent project and no practicable alternative exists. Conservation measures would reduce the potential for impacts on the biological resources and water quality of Little Panoche Creek, thereby minimizing any degradation of wetlands.

4.6 Fish and Wildlife Coordination Act (16 USC §661 et seq.)

The Fish and Wildlife Coordination Act requires that Federal agencies consult with fish and wildlife agencies (Federal and State) whenever a body of water is proposed to be impounded, diverted, controlled, or otherwise modified, either by the Federal agency, or by a public or private agency under a Federal permit or license. This project is a maintenance project that would only remove accumulated sediment and vegetation, and would not involve any new construction (i.e. it is not a water development project). Therefore the Fish and Wildlife Coordination Act does not apply.

4.7 Indian Trust Assets

There are no tribes possessing legal property interests held in trust by the United States in the areas involved with this action. The nearest Indian trust asset (ITA) is a Public Domain Allotment, which is approximately 32 miles WSW of the project location. As there are no ITAs in the project area, Indian trust assets would not be affected by this action.

4.8 Migratory Bird Treaty Act (16 USC §703 et seq.)

The Migratory Bird Treaty Act implements various treaties and conventions between the U.S. and Canada, Japan, Mexico and the former Soviet Union for the protection of migratory birds. Unless permitted by regulations, the Act provides that it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not. Subject to limitations in the Act, the Secretary of the Interior (Secretary) may adopt regulations determining the extent to which, if at all, hunting, taking, capturing, killing, possessing, selling, purchasing, shipping, transporting or exporting of any migratory bird, part, nest or egg will be allowed, having regard for temperature zones, distribution, abundance, economic value, breeding habits and migratory flight patterns.

The Proposed Action has a low probability of affecting migratory birds, and conservation measures have been incorporated into the project description to protect them from adverse effects; these measures would ensure compliance with the Migratory Bird Treaty Act.

4.9 National Historic Preservation Act (15 USC §470 et seq.)

Section 106 of the National Historic Preservation Act requires Federal agencies to evaluate the effects of Federal undertakings on historical, archaeological and cultural resources. Federal agencies are required to consider the effects of their undertakings on historic resources, and to give the Advisory Council a reasonable opportunity to comment on those undertakings.

Reclamation concluded that no historic properties will be affected by vegetation and sediment removal at LPDD pursuant to 36 CFR Part 800.4(d)(I). Reclamation consulted with the SHPO regarding this undertaking on August 8, 2008. The SHPO concurred with Reclamation's findings and determination on August 18, 2008 (letter BUR080808A).

Section 5 List of Preparers and Reviewers

Shauna McDonald, Wildlife Biologist, Bureau of Reclamation – preparer
Patricia Rivera, Native American Affairs Program Manager, Bureau of Reclamation – preparer
Amy Barnes, Archeologist, Bureau of Reclamation – preparer
Judi Tapia, Supervisory Natural Resource Specialist (NEPA), Bureau of Reclamation – reviewer
Chris Eacock, Natural Resource Specialist (water quality), Bureau of Reclamation – reviewer

Section 6 References

CNDDB. 2007. California Natural Diversity Database, Government Version. California Department of Fish and Game. December 31, 2007.

Environmental Protection Agency. 2008. Classifications of Particulate Matter (PM-10) Nonattainment Areas. http://www.epa.gov/air/oaqps/greenbk/pnca.html#7381. March 12, 2008.

United States Fish and Wildlife Service (USFWS). 1996. Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the California red-legged frog. Federal Register 61:25813-25833.

_____. 1999. Standardized recommendations for protection of San Joaquin kit fox prior to or during groundbreaking activities. Website: http://www.fws.gov/sacramento/es/documents/kitfox_standard_rec.PDF

APPENDIX 1—Species List from USFWS

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825

March 13, 2009

Document Number: 090313053615

Shauna McDonald
Bureau of Reclamation
1243 N St.
Fresno, CA 93721

Subject: Species List for Vegetation and Sediment Maintenance Program at Little Panoche Detention Dam,

Dear: Ms. McDonald

We are sending this official species list in response to your March 13, 2009 request for information about endangered and threatened species. The list covers the California counties and/or U.S. Geological Survey 7½ minute quad or quads you requested.

Our database was developed primarily to assist Federal agencies that are consulting with us. Therefore, our lists include all of the sensitive species that have been found in a certain area *and also ones that may be affected by projects in the area*. For example, a fish may be on the list for a quad if it lives somewhere downstream from that quad. Birds are included even if they only migrate through an area. In other words, we include all of the species we want people to consider when they do something that affects the environment.

Please read Important Information About Your Species List (below). It explains how we made the list and describes your responsibilities under the Endangered Species Act.

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be June 11, 2009.

Please contact us if your project may affect endangered or threatened species or if you have any questions about the attached list or your responsibilities under the Endangered Species Act. A list of Endangered Species Program contacts can be found at www.fws.gov/sacramento/es/branches.htm.

Endangered Species Division

TAKE PRIDE IN AMERICA

U.S. Fish & Wildlife Service

Sacramento Fish & Wildlife Office

Federal Endangered and Threatened Species that Occur in or may be Affected by Projects in the Counties and/or U.S.G.S. 7 1/2 Minute Quads you requested

Document Number: 090313053615

Database Last Updated: January 29, 2009

Quad Lists

Listed Species

Invertebrates

Desmocerus californicus dimorphus

valley elderberry longhorn beetle (T)

Fish

Hypomesus transpacificus

delta smelt (T)

Amphibians

Ambystoma californiense

California tiger salamander, central population (T)

Rana aurora draytonii

California red-legged frog (T)

Reptiles

Gambelia (=Crotaphytus) sila

blunt-nosed leopard lizard (E)

Mammals

Dipodomys ingens

giant kangaroo rat (E)

Dipodomys nitratoides exilis

Fresno kangaroo rat (E)

Vulpes macrotis mutica

San Joaquin kit fox (E)

Quads Containing Listed, Proposed or Candidate Species:

LAGUNA SECA RANCH (383D)

County Lists

No county species lists requested.

Key:

(E) *Endangered* - Listed as being in danger of extinction.

(T) *Threatened* - Listed as likely to become endangered within the foreseeable future.

(P) *Proposed* - Officially proposed in the Federal Register for listing as endangered or threatened.

(NMFS) Species under the Jurisdiction of the National Oceanic & Atmospheric Administration Fisheries Service. Consult with them directly about these species.

Critical Habitat - Area essential to the conservation of a species.

(PX) *Proposed Critical Habitat* - The species is already listed. Critical habitat is being proposed for it.

(C) *Candidate* - Candidate to become a proposed species.

(V) Vacated by a court order. Not currently in effect. Being reviewed by the Service.

(X) *Critical Habitat* designated for this species

Important Information About Your Species List

How We Make Species Lists

We store information about endangered and threatened species lists by U.S. Geological Survey 7½ minute quads. The United States is divided into these quads, which are about the size of San Francisco.

The animals on your species list are ones that occur within, **or may be affected by** projects within, the quads covered by the list.

- Fish and other aquatic species appear on your list if they are in the same watershed as your quad or if water use in your quad might affect them.
- Amphibians will be on the list for a quad or county if pesticides applied in that area may be carried to their habitat by air currents.
- Birds are shown regardless of whether they are resident or migratory. Relevant birds on the county list should be considered regardless of whether they appear on a quad list.

Plants

Any plants on your list are ones that have actually been observed in the area covered by the list. Plants may exist in an area without ever having been detected there. You can find out what's in the surrounding quads through the California Native Plant Society's online Inventory of Rare and Endangered Plants.

Surveying

Some of the species on your list may not be affected by your project. A trained biologist and/or botanist, familiar with the habitat requirements of the species on your list, should determine whether they or habitats suitable for them may be affected by your project. We recommend that your surveys include any proposed and candidate species on your list. See our Protocol and Recovery Permits pages.

For plant surveys, we recommend using the Guidelines for Conducting and Reporting Botanical Inventories. The results of your surveys should be published in any environmental documents prepared for your project.

Your Responsibilities Under the Endangered Species Act

All animals identified as listed above are fully protected under the Endangered Species Act of 1973, as amended. Section 9 of the Act and its implementing regulations prohibit the take of a federally listed wildlife species. Take is defined by the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any such animal.

> Take may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or shelter (50 CFR §17.3).

Take incidental to an otherwise lawful activity may be authorized by one of two procedures:

- If a Federal agency is involved with the permitting, funding, or carrying out of a project that may result in take, then that agency must engage in a formal consultation with the Service.

  During formal consultation, the Federal agency, the applicant and the Service work together to avoid or minimize the impact on listed species and their habitat. Such consultation would result in a biological opinion by the Service addressing the anticipated effect of the project on listed and proposed species. The opinion may authorize a limited level of incidental take.

- If no Federal agency is involved with the project, and federally listed species may be taken as part of the project, then you, the applicant, should apply for an incidental take permit. The Service may issue such a permit if you submit a satisfactory conservation plan for the species that would be affected by your project.

  Should your survey determine that federally listed or proposed species occur in the area and are likely to be affected by the project, we recommend that you work with this office and the California Department of Fish and Game to develop a plan that minimizes the project's direct and indirect impacts to listed species and compensates for project-related loss of habitat. You should include the plan in any environmental documents you file.

Critical Habitat

When a species is listed as endangered or threatened, areas of habitat considered essential to its conservation may be designated as critical habitat. These areas may require special management considerations or protection. They provide needed space for growth and normal behavior; food, water, air, light, other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, germination or seed dispersal.

Although critical habitat may be designated on private or State lands, activities on these lands are not restricted unless there is Federal involvement in the activities or direct harm to listed wildlife.

If any species has proposed or designated critical habitat within a quad, there will be a separate line for this on the species list. Boundary descriptions of the critical habitat may be found in the Federal Register. The information is also reprinted in the Code of Federal Regulations (50 CFR 17.95). See our Map Room page.

Candidate Species

We recommend that you address impacts to candidate species. We put plants and animals on our candidate list when we have enough scientific information to eventually propose them for listing as threatened or endangered. By considering these species early in your planning process you may be able to avoid the problems that could develop if one of these candidates was listed before the end of your project.

Species of Concern

The Sacramento Fish & Wildlife Office no longer maintains a list of species of concern. However, various other agencies and organizations maintain lists of at-risk species. These lists provide essential information for land management planning and conservation efforts. More info

Wetlands

If your project will impact wetlands, riparian habitat, or other jurisdictional waters as defined by section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act, you will need to obtain a permit from the U.S. Army Corps of Engineers. Impacts to wetland habitats require site specific mitigation and monitoring. For questions regarding wetlands, please contact Mark Littlefield of this office at (916) 414-6580.

Updates

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be June 11, 2009.

APPENDIX 2—Photographs of Project Site

Figure 1. Little Panoche Creek and surrounding area; taken from the Detention Dam looking east.

Figure 2. Rip rap area (most upstream); looking south.

Figure 3. Creek to be cleaned (foreground); looking downstream from cement structure.

Figure 4. Tamarisk and rip rap removal downstream site; looking north.

Figure 5. Spillway structure; looking down into structure.

Figure 6. Cattails growing in spillway; looking down into structure

APPENDIX 3—Wetland Delineation/Correspondence with the U.S. Army Corps of Engineers

Preliminary Wetland Determination/Delineation – Little Panoche Detention Dam Vegetation and Sediment Maintenance Project

This wetland delineation has been conducted in accordance with the 1987 "Corps of Engineers Wetlands Delineation Manual."

The project area is located in northwestern Fresno County, approximately 26 miles west of the City of Firebaugh, and 26 miles southwest of Los Banos, off of the junction between Little Panoche Road and Interstate 5 (Figures 1 and 2). Access to the project site is through a gated road on the south side of Little Panoche Road next to the public parking area. This area is located in the Laguna Seca USGS Quadrangle.

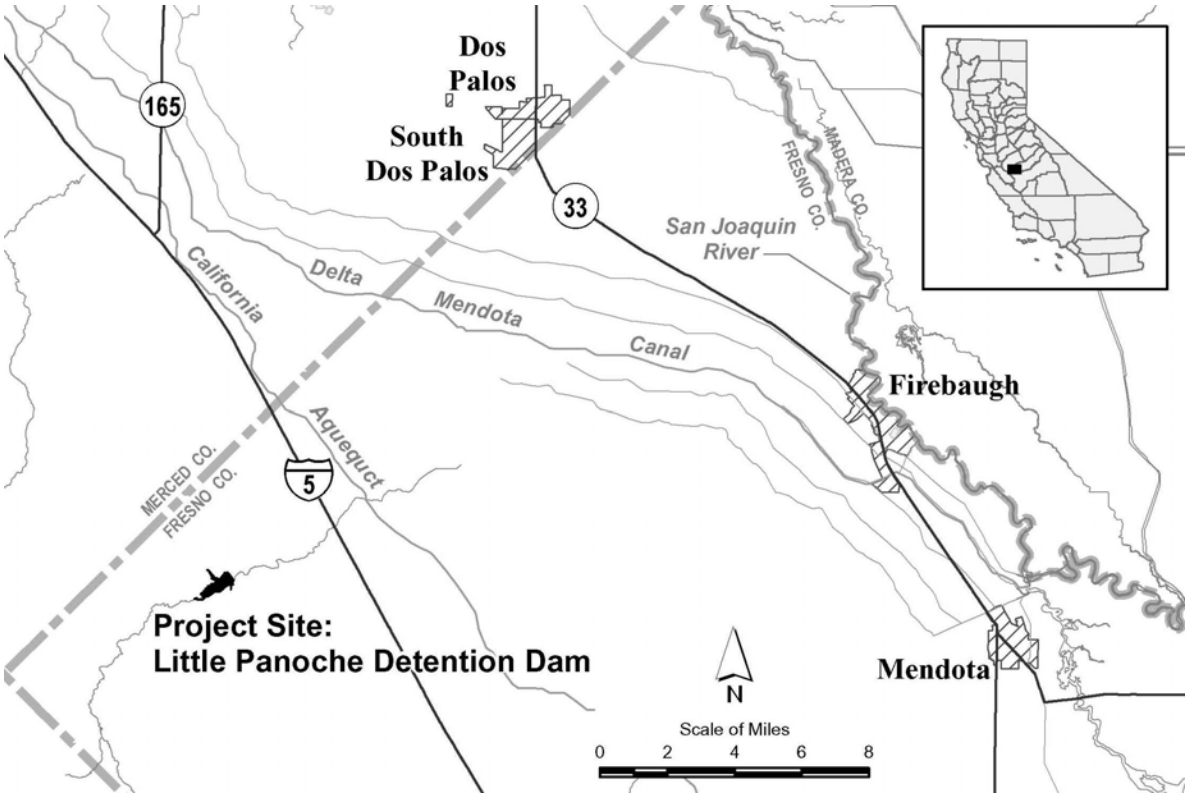


Figure 1. Little Panoche Detention Dam and surrounding areas.

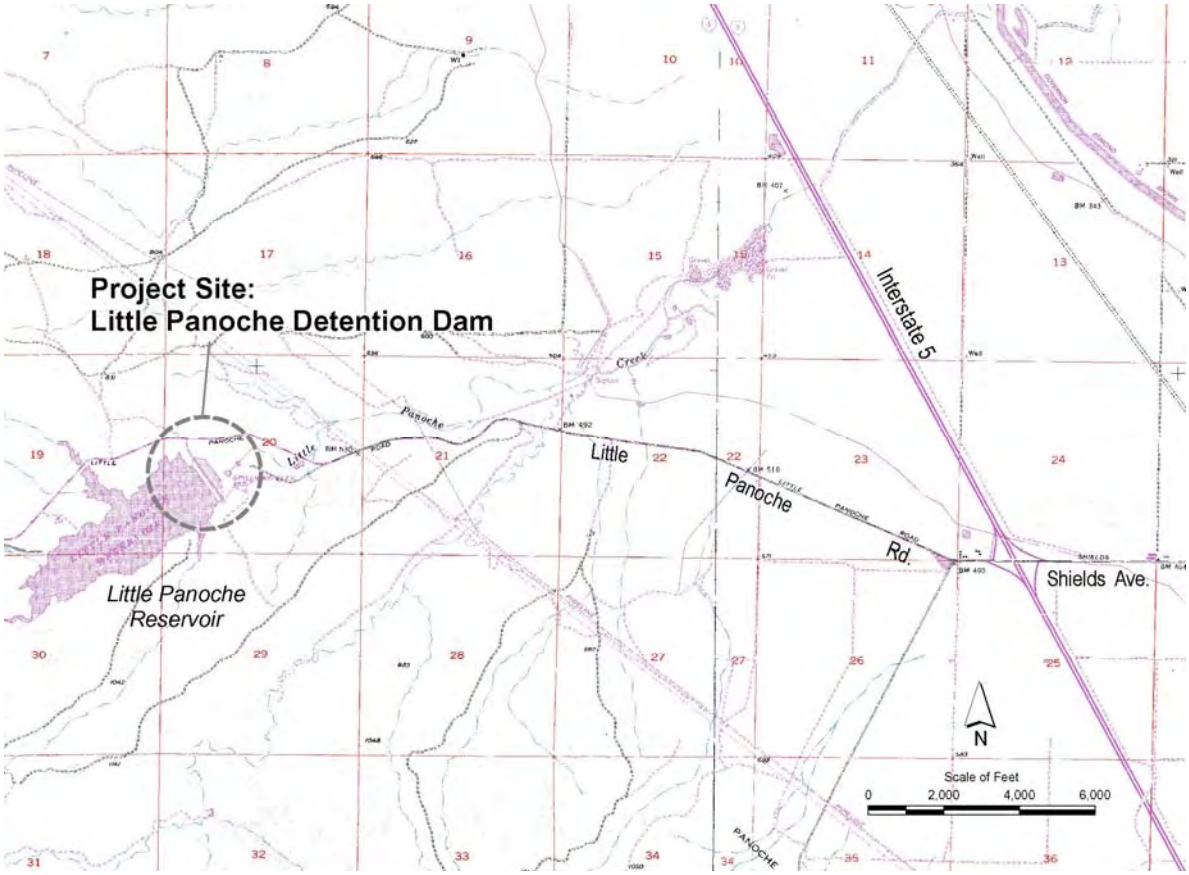


Figure 2. Detailed location of Little Panoche Detention Dam.

Little Panoche Creek, an ephemeral creek, begins in the Glaucopane Ridge in San Benito County. It then flows into western Fresno County where it is dammed at LPDD. The Dam was built between 1965 and 1966 to detain floodwater collected over 81.3 square miles and to protect the integrity of the San Luis Canal (California Aqueduct). The Dam acts as a sediment trap to prevent flooding of the San Luis Canal and land downstream of the Dam. It is an earthen dam with a height of 151 feet and a length of 1,440 feet and has a 13,270 acre feet capacity. Outflow passes through an outlet spillway into the creek. Maximum discharge is 3,220 cubic feet per second. Little Panoche Detention Dam is a joint-use facility owned by Reclamation and operated and maintained by DWR.

Little Panoche is an ephemeral creek flowing intermittently during the winter. The channel is very alkaline in nature and contains quailbush (*Atriplex lentiformis*), tree tobacco (*Nicotiana glauca*), Tamarisk (*Tamarix ssp.*), iodine bush (*Allenrolfea occidentalis*), alkali heath (*Frankenia salina*), saltgrass (*Distichlis spicata*) and a thick growth of cattail (*Typha latifolia*); the creek does not support the growth of native riparian trees. The upland habitat in the project area is dominated by non-native grassland with scattered shrubs predominately Valley saltbush (*Atriplex polycarpa*), Bladderpod (*Isomeris arborea*), and Goldenbush (*Isocoma acradenia*). The ponded area

below the spillway structure contains water year round, there are dense mats of cattail growth.

Because Little Panoche Creek is a natural creek with a bed, bank, and channel, and contains hydric soils, it is assumed that this is considered a wetland or jurisdictional under the Clean Water Act soil pits were not dug in the area.

The length of the channel at the ordinary high water mark was measured to be 85’5” across the channel just below the outlet structure; 96’3” below the baffled apron and 71’2” at the downstream end of the work area (Figure 3). Any work in this creek would also require a Streambed Alteration Agreement from the California Department of Fish and Game.

Figure 3. Ordinary high water mark measurements.

The project area includes the existing access road parallel to the creek and the spoil area within the terrestrial habitat adjacent to the creek. The primary land use in the project vicinity is rangeland with some recreation land at the reservoir.

Prior to conducting any field visits background research was conducted on the soils of the area. According to the Soil Survey for western Fresno County, the soil for the wetland area includes the Anela-Vernalis association, 0 – 5% slopes (USDA-SCS, 2006). This association includes Anela very gravelly sandy loam and the Vernalis loam. The Anela very gravelly sandy loam is loamy-skeletal, mixed, superactive, thermic Calcic Haploxerepts which are well-drained, alluvium soils derived from sedimentary and/or mixed rock. The Vernalis loam is fine-loamy mixed, superactive, thermic Calcic Haploxerepts that are well-drained, alluvium soils derived from sandstone and shale. Both soils are found in the floodplains along the Coastal Range (Figure 4). These soils are on the California list of hydric soils.

In conducting a routine wetland determination (See attached data form), the three factors (vegetation, hydrology, soils) that make an area a wetland are analyzed. The vegetation within the creek included one upland species, one facultative (–) and facultative (+), one facultative wet (-) and facultative wet (+), and one obligate wetland plant (Table1).

Table 1. Dominant plant species

Scientific Name	**Common Name**	**Indicator**	**Percent Cover estimate**
Allenrolfea occidentalis	iodine bush	FACW+	1
Atriplx lentiformis	quailbush	FAC	1
A. polycarpa	Valley saltbush	FACU	1
Distichlis spicata	saltgrass	FACW	5
Frankenia salina	alkali heath	FACW+	1
Helianthus annuus	sunflower	FAC-	1
Tamarisk ssp.		FACW	10
Typha latifolia	cattail	OBL	75

The percent of dominant plant species that are considered in a wetland determination (OBL, FACW, FAC+) is 93%. Since this number is greater than 50%, this fulfills the criteria for hydrophytic vegetation.

Wetland hydrology includes areas that are periodically inundated or saturated to the soil surface at some time during the growing season. Indicators of hydrology include inundation, saturation within the upper 12 inches, water marks, and sediment deposits. During the site visit the creek was dry but the ordinary high water marks are observable and since this is a known creek the hydrology criterion for this area is fulfilled. The FAC-Neutral Test is positive for this area; more than 50% of the dominant plant species are wetter than FAC.

The soils for the creek and surrounding floodplain are on the list of hydric soils found in California.

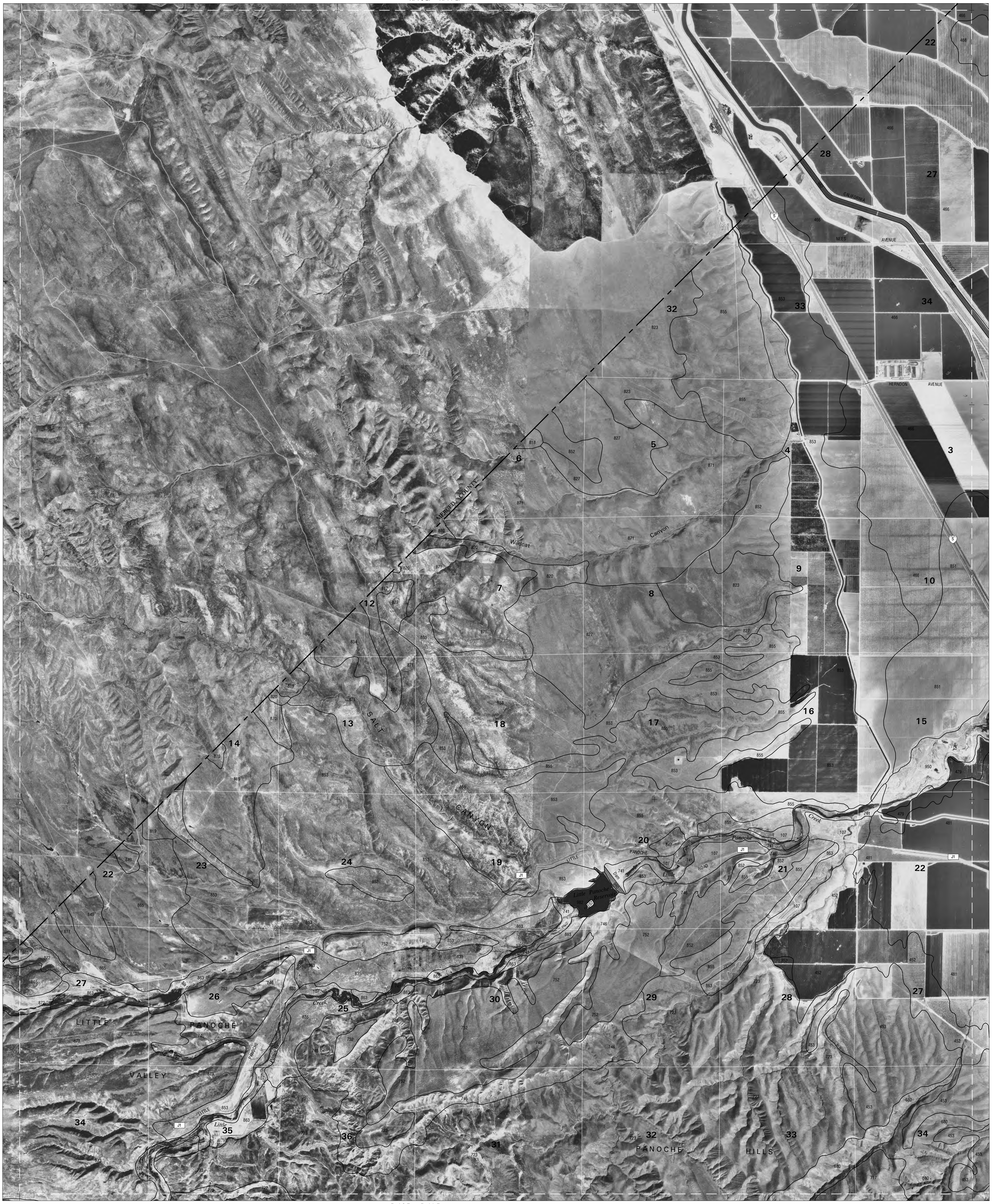
Figure 4. Soil map

UNITED STATES
DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

FRESNO COUNTY, WESTERN PART, CALIFORNIA
LAGUNA SECA RANCH QUADRANGLE
SHEET NUMBER 7 OF 54

Joins sheet 2, Charleston School

Joins sheet 3, Dos Palos



Joins sheet 6, Ortigalita Peak

Joins sheet 8, Hammonds Ranch

Joins sheet 12, Cerro Colorado

Joins sheet 13, Mercey Hot Springs

Joins sheet 14, Chounet Ranch

This soil survey was compiled by the U.S. Department of Agriculture, Natural Resources Conservation Service. Base maps are orthophotographs prepared by the U.S. Department of the Interior, Geological Survey, from 1987 - 1999 aerial photography. Public land survey system (PLSS) were acquired from U.S. Geological Survey.

North American Datum of 1983 (NAD83). GRS-80 Spheriod 1000-meter ticks: Universal Transverse Mercator, zone 10. Coordinate grid ticks and land division data, if shown, are approximately positioned. Digital data are available for this quadrangle.

NORTH

QUADRANGLE LOCATION

SCALE 1:24000

1 0 1
MILES

1000 0 1000 2000 3000 4000 5000 6000 7000
FEET

1 0 1
KILOMETERS

LAGUNA SECA RANCH, CALIFORNIA
7.5 MINUTE SERIES
SHEET NUMBER 7 OF 54

Soil map delineations extending beyond the dashed white quadrangle neatline are for reference only and are included on adjacent map sheets.

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Little Panoche Detention Dam/Creek Applicant/Owner: CA Dept of Water Resources/US Bureau of Reclamation Investigator: Karen Dulik	Date: 26 June 2008 County: Fresno State: California
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: _____ Transect ID: _____ Plot ID: _____

VEGETATION

Dominant Plant Species	Stratum	Indicator
1. Typha latifolia	H	OBL
2. Tamarisk sp.	T	FACW
3. Distichlis spicata	H	FACW
4.		
5.		
6.		
7.		
8.		

Dominant Plant Species	Stratum	Indicator
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 93%

Remarks: This is an ~~ephemeral~~ ephemeral creek that flows when flood releases

HYDROLOGY

___ Recorded Data (Describe in Remarks):
- X Stream, Lake, or Tide Gauge
- X Aerial Photographs
- ___ Other

___ No Recorded Data Available

Field Observations: No pits conducted

Depth of Surface Water: _____(in.)

Depth to Free Water in Pit: _____(in.)

Depth to Saturated Soil: _____(in.)

Wetland Hydrology Indicators:
Primary Indicators:
- ___ Inundated
- ___ Saturated in Upper 12 Inches
- X Water Marks
- ___ Drift Lines
- ___ Sediment Deposits
- X Drainage Patterns in Wetlands

Secondary Indicators (2 or more required):
- ___ Oxidized Root Channels in Upper 12 Inches
- X Water-Stained Leaves
- X Local Soil Survey Data
- ___ FAC-Neutral Test
- ___ Other (Explain in Remarks)

Remarks: This is a creek channel - the soils are listed as hydric under the California List - flows are only when flooding or when releases are made at the dam.

SOILS

Map Unit Name (Series and Phase): Anela-Vernalis association, 0 to 5% slopes Drainage Class: well drained

Taxonomy (Subgroup): Calcic Haploxerepts Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/ Size/Contrast	Texture, Concretions, Structure, etc.

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- [X] Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks: A pit was not dug – looked a soil survey data creek is considered a wetland.
Soils are alluvium and found within floodplains of the Coastal Range

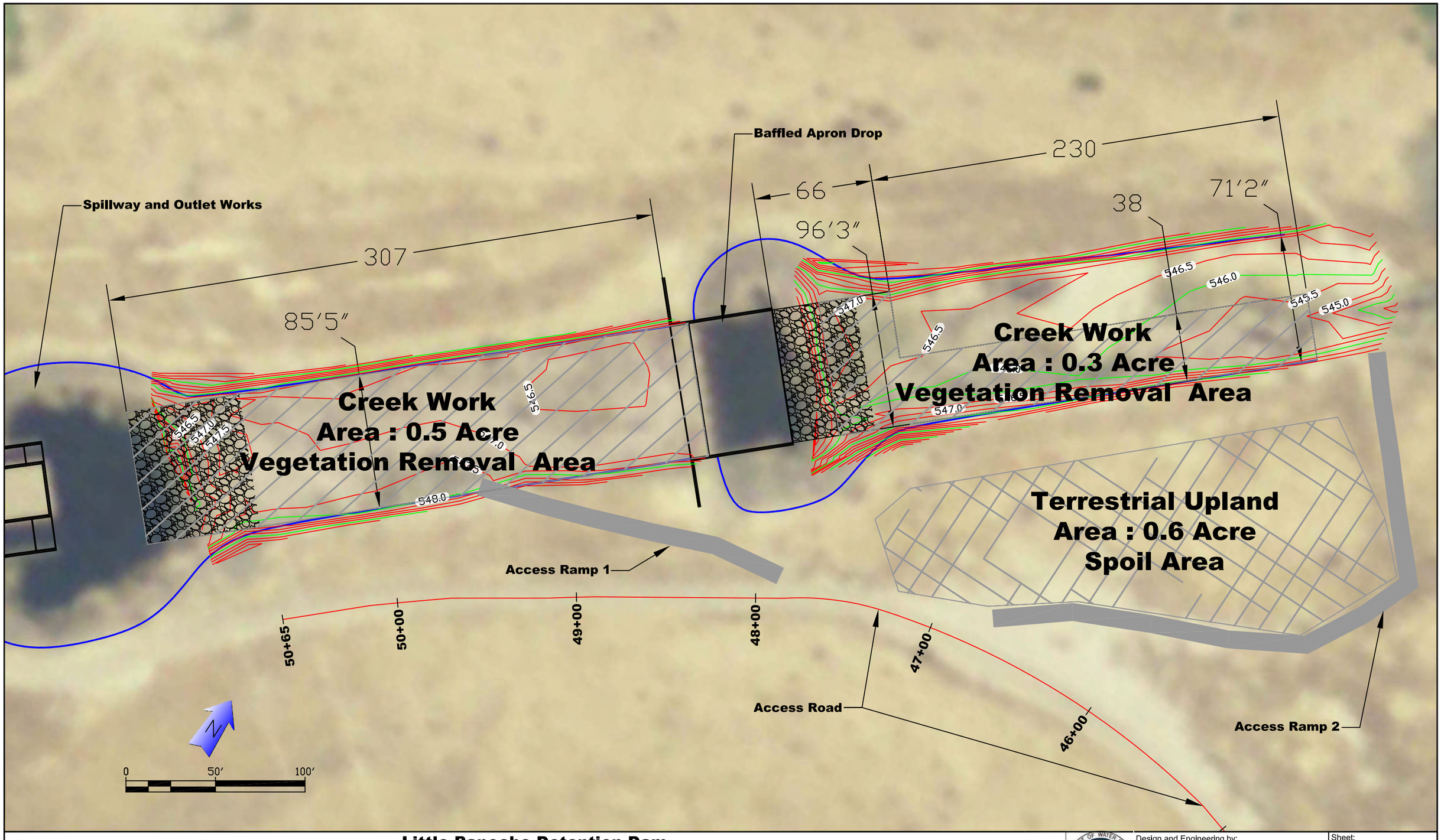
WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)
Wetland Hydrology Present? (Yes) No
Hydric Soils Present? (Yes) No

(Circle)
Is this Sampling Point Within a Wetland? Yes No

Remarks: This is considered a wetland area and ephemeral creek.

Approved by HQUSACE 3/92



Little Panoche Detention Dam
Vegetation Removal Area

Department of Water Resources San Joaquin District River Management Section

	Design and Engineering by: XXXX	Sheet: 2 of 2
	Drawn by: Byron Willems	Date: 07-01-2008

Little Panoche Rd

Access Road

US Bureau of Reclamation owned property. DWR managed Area : 83 Acres

Ephemeral Drainage Little Panoche Creek Area : 4.4 Acres

Creek Work Area : 0.27 Acre Vegetation Removal Area

Terrestrial Upland Area : 0.55 Acre Spoil Area

Creek Work Area : 0.55 Acre Vegetation Removal Area

1+00 2+00 3+00 4+00 5+00 6+00 7+00 8+00 9+00 10+00 11+00 12+00 13+00 14+00 15+00 16+00 17+00 18+00 19+00 20+00 21+00 22+00 23+00 24+00 25+00 26+00 27+00 28+00 29+00 30+00 31+00 32+00 33+00 34+00 35+00 36+00 37+00 38+00 39+00 40+00 41+00 42+00 43+00 44+00 45+00 46+00 47+00 48+00 49+00 50+00 50+65

N

Little Panoche Creek Detention Dam		
	Description	Area (Acres)
	US Bureau of Reclamation owned property. DWR managed	82.7
	Ephemeral Drainage Little Panoche Creek	4.4

0 250′ 500′

Little Panoche Detention Dam
Project and Creek Areas

Department of Water Resources San Joaquin District River Management Section

Design and Engineering by: XXXX		Sheet: 1 of 1
Drawn by: Byron Willems		Date: 07-11-2008

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

October 1, 2008

Regulatory Division (SPK-2008-00216)

Ms. Karen Dulik
California Department of Water Resources
3374 E. Shields Avenue
Fresno, California 93726-6913

Dear Ms. Dulik:

We are responding to your consultant's request for an approved jurisdictional determination for the Little Panoche Detention Dam project. This approximately 82.7-acre site is located in Section 20, Township 13 S, Range 11 E, MDB&M, Latitude 36.78464° N, Longitude 120.79560° W, Fresno County, California.

Based on available information, the 4.4-acre water identified as "Little Panoche Creek" on the July 11, 2008 "Little Panoche Detention Dam Project and Creek Areas" drawing prepared by the California Department of Water Resources, is an intrastate isolated water with no apparent interstate or foreign commerce connection. As such, this water is not currently regulated by the Corps of Engineers. This disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, State, and local laws may apply to your activities. In particular, you may need authorization from the California State Water Resources Control Board and/or the U.S. Fish and Wildlife Service.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331.

A Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form is enclosed. If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address: Administrative Appeal Review Officer, Army Corps of Engineers, South Pacific Division, CESPD-PDS-O, 1455 Market Street, San Francisco, California 94103-1399, Telephone: 415-503-6574, FAX: 415-503-6646.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 60 days from the date of this letter. It is

not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This determination has been conducted to identify the limits of Corps of Engineers' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

We appreciate your feedback. At your earliest convenience, please complete our customer survey at *http://www.spk.usace.army.mil/customer_survey.html*. Your passcode is "conigliaro".

Please refer to identification number SPK-2008-216 in any correspondence concerning this project. If you have any questions, please contact Zachary Simmons at our Sacramento office, 1325 J Street, Room 1480, email *Zachary.M.Simmons@usace.army.mil*, or telephone 916.557.6746. You may also find additional information on our website: *www.spk.usace.army.mil/regulatory.html*.

Sincerely,

Kathleen Dadey Ph.D.
Chief, California South Branch

Enclosure(s)

Copy Furnished without enclosure(s)

Mr. Kent Smith, California Department of Fish and Game, 1701 Nimbus Road, Rancho Cordova, CA 95670-4503
Mr. Bill Orme, Chief, Water Quality Certification Unit, California State Water Resources Control Board, 1001 I Street, Sacramento, California 95814-2828
Mr. Dave Smith, Wetland Section Chief (W-8), United States Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105
Mr. William Marshall, Storm Water and Water Quality Certification Unit, Central Valley Regional Water Quality Control Board, 11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Karen Dulik	File No.: SPK-2008-00216	Date: September 29, 2008

Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at *http://www.usace.army.mil/inet/functions/cw/cecwo/reg* or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the DISTRICT engineer. Your objections must be received by the DISTRICT engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the DISTRICT engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the DISTRICT engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse). This form must be received by the DIVISION engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse). This form must be received by the DIVISION (not district) engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse). This form must be received by the DIVISION engineer within 60 days of the date of this notice. Exception: JD appeals based on new information must be submitted to the DISTRICT engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact: **DISTRICT ENGINEER** Sacramento District, Corps of Engineers Attn: Zachary Simmons, Project Manager, Regulatory Division 1325 J Street, Room 1480 916.557.6746, FAX 916.557.6877 (Use this address for submittals to the **DISTRICT** ENGINEER)	If you only have questions regarding the appeal process you may also contact: **DIVISION ENGINEER** Army Engineer Division, South Pacific, CESPD-CM-O Attn: Tom Cavanaugh, Administrative Appeal Review Officer, Army Corps of Engineers , CESPD-PDS-O, 1455 Market Street, San Francisco, CA 94103-1399 (415-503-6574, FAX 415-503-6646) (Use this address for submittals to the **DIVISION** ENGINEER)

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number: